a defaulter, and the plaintiff was employed by the defendants as a creditman during the period covered by the defalcations on the part of Borchardt. The defendants sent out monthly statements of accounts to all their customers, for the purpose of having a check upon their salesmen. The plaintiff was in a position to suppress these statements to the customers of Borchardt, and they failed to reach their destination. After the embezzlement was discovered, plaintiff advised against an investigation, and was known to have received large sums of money from Borchardt prior to the discovery, and in a short time he resigned without cause, and became associated with Borchardt. On advice of counsel, plaintiff was indicted as an accomplice of Borchardt. In this action for malicious prosecution the question of probable cause *held,* to be for the jury, and a verdict of $25,000 for malicious prosecution not excessive. *Rawson* v. *Leggett* (1904), — N. Y. Sup. Ct. —, 90 N. Y. Supp. 5.

The defendants urge that the plaintiff did not satisfy the rule which requires him to prove that the prosecution was both malicious and without probable cause. *Hazzard* v. *Flury,* 120 N. Y. 223, 227; 24 N. E. 194, 195; and that the facts in the case would lead a discreet and prudent person to believe that the crime was committed by the plaintiff, *Anderson* v. *How,* 116 N. Y. 336, 338; 22 N. E. 695, 696. The court distinguished between malice and probable cause (*Heyne* v. *Blair,* 62 N. Y. 19), and an honest belief founded upon reasonable grounds is not sufficient. *Farnam* v. *Feeley,* 56 N. Y. 451, 454. The court was of the opinion that the salient circumstances revealed by the evidence permitted contrary inferences, and there was no error in submitting the question of probable cause to the jury. *Fagnan* v. *Knox,* 66 N. Y. 525, 527; *Wass* v. *Stephens,* 128 N. Y. 123, 28 N. E. 21. Where the verdict is not induced by prejudice, passion or malice, the law allows a wide latitude of discretion in actions of this class, and places no general limit upon the amount of recovery. *Voltz* v. *Blackmar,* 64 N. Y. 440. A large number of cases are cited in support of the principal case, and the recent decisions in *Rulison* v. *Collins,* — Ind. T. —, 82 S. W. 748; *Charlton* v. *Markland,* — Wash. —, 78 Pac. Rep. 132, are in point. However, a strong dissenting opinion was expressed as to the want of probable cause.

MALICIOUS PROSECUTION—SEARCH WARRANTS.—Defendant had procured issuance of a search warrant, charging plaintiff with theft of certain goods. The goods were not found and defendant did not further prosecute the charge. *Held,* an action will lie for maliciously and without probable cause procuring the issuance and execution of a search warrant for alleged stolen goods. *Spangler* v. *Booze* (1904), — Va. —, 49 S. E. 42.

A demurrer to the declaration was sustained in the court below on the ground that it failed to allege that the charges contained in the search warrant were tried on their merits, and that plaintiff was adjudged innocent. That action will lie in such cases seems well established. *Miller* v. *Brown,* 3 Mo. 94; *Olson* v. *Tvete,* 46 Minn. 225; 48 N. W. 914, *Whitson* v. *May,* 71 Ind. 269. The rule as to what constitutes a termination of the proceedings sufficient to give ground for action is thus stated by Judge Cooley: "The technical prerequisite is only that the particular prosecution be disposed of in such

manner that this cannot be revived, and the prosecutor, if he proceeds further, will be put to a new one." COOLEY ON TORTS (2nd ed.), p. 216; *Clark* v. *Cleveland,* 6 Hill 344; *Casebeer* v. *Rice,* 18 Neb. 203; *Apgar* v. *Woolston,* 43 N. J. L. 57.

MECHANIC'S LIEN—RIGHTS OF SUBCONTRACTOR.—Plaintiff, a subcontractor, having furnished machinery for generating electricity for a trolley system, seeks to enforce a mechanic's lien under a statute providing a lien when machinery is furnished for "manufacturing purposes." It was agreed in the principal contract that no lien for labor or materials should be filed. *Held,* 1—that the generating of electricity is a manufacturing process; 2—that a subcontractor with notice has no right to a lien where the principal contractor has agreed with the owner that none shall be filed. *Bates Machinery Co.* v. *Trenton & N. B. R. R. Co.* (1904), — N. J. —, 58 Atl. Rep. 935.

The defendant maintained, 1—that the machinery furnished by the plaintiff was not for manufacturing purposes, and 2—that evidence offered to prove that plaintiff before entering into the contract had notice of the principal contractor's agreement (that no liens for labor or material should be filed) should be admitted. Possibly from a purely technical point of view the generating of electricity is not a manufacturing process, it is, to be more exact, a making available a form of energy which already exists. Yet it is the common expression, the sense of legislatures and the universal thought that electricity is manufactured and it has been so held by most of the courts. *Beggs* v. *Edison Electric Illuminating Co.,* 96 Ala. 295; *Brush Electric Mfg. Co.* v. *Wemple,* 129 N. Y. 543. There are, however, decisions in two states where exemptions from taxation have been denied to electric light companies upon the ground that they were not included under the term "Corporations carrying on Manufacturing within the State." *Commonwealth* v. *Edison Electric Co.,* 170 Pa. St. 231; *Frederick Elec. Light Co.* v. *Frederick City,* 84 Md. 599. The claim by the defendant that the plaintiff was bound by the agreement of the principal contractor with the owner is the general rule followed by the majority of the courts. *Bowen* v. *Aubrey,* 22 Cal. 566; *Epeneter* v. *Montgomery County,* 98 Iowa, 159; *Seeman* v. *Biemann,* 108 Wis. 365. But such a holding would seem to defeat the very purpose of the law. The contention that the laborer or materialman is not obliged to accept the employment is not satisfactory. Such acceptance is quite often a matter of necessity. The law is for his protection and should not be defeated by agreements of the principal contractor with the owner. It has been so held in *Smalley* v. *Gearing,* 121 Mich. 190, and *Norton* v. *Clark,* 85 Me. 357.

PARTNERSHIP—SECRET AGREEMENTS BY MEMBER OF FIRM—PARTNERSHIP ASSETS.—Plaintiffs and a brother were engaged in the lumber business. The brother died, and plaintiffs filed a bill for an accounting. While this proceeding was pending, R. offered to buy certain land belonging to the partnership. Without consulting the widow of the deceased partner, plaintiffs gave R. an option on the land at $500,000. R. then sought to induce the widow to agree to the sale at that price, but she demanded $900,000. Finally R. and the widow made an arrangement by which she was to receive $44,444.45 in